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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/676,955 | 10/01/2003 | Lawrence A. Blaustein | 8778CC | 8142 |

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THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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EXAMINER

SPISICH, MARK

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

1744

DATE MAILED: 07/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/676,955

Applicant(s)

BLAUSTEIN ET AL.

Examiner

Mark Spisich

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 59-86 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 59-86 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 24 May 2005 has been entered.

Claim Rejections - 35 USC § 112

2. Claim 85 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is not clear as to why claim 85 recites the second bristle holder as having both a second (line 10) as well as a third (line 16) plurality of tufts, in that the "second plurality" is assumed to include all of the tufts of the second holder. The reference to the "handle" in claim 85 (line 19) is indefinite for reason of a lack of antecedent and further because claim 85 is drawn to the subcombination of the head. It should be changed to -- first end --. Applicant should review the claims for any additional informalities.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 59-64,66-77 and 79-86 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bauman (USP 5,353,460) in view of Brown, Jr. et al (US PUB 2002/0138926). The patent to Bauman discloses an electric toothbrush comprising a handle (A) with a motor (12) operatively connected to a drive system comprising a shaft (30) as well as a first (the distal of the brush elements 2) and a second (the proximal of the brush elements 2) bristle holder disposed on a head (B) detachably (claims 85 and 86) secured to the handle (A) (column 2, lines 30-35) wherein the first bristle holder is operatively connected to the drive so as to oscillate (column 1, lines 6-7) about an axis perpendicular to the longitudinal axis of the head and further wherein the second bristle carrier is also operatively connected to the drive to move the second bristle holder. The patent to Bauman discloses the invention substantially as claimed with the exception of the particular tuft arrangement. Brown discloses a bristle carrier (50) (with particular reference to figures 5-8 and paragraphs 0036 thru 000042) supporting a plurality of tufts (52,54,56,58,60 and 62) having various lengths and angles with respect to the upper surface of the carrier (50), including both angled (eg, 56,58,60 and 62) and perpendicular (eg, 52 and 54) tufts. It would have been obvious to one of ordinary skill to have modified **one or both** of the bristle carriers (2) of Bauman as taught by Brown so as to better clean the irregular surfaces of the teeth. Upon the modification of the carriers (2) of Bauman in view of Brown, there would be numerous tufts having particular relationships to the handle and to each other. Of the tufts (56), the one proximal the handle would be the tuft extending toward the handle and the other would

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be the one extending away from the handle. Further, any one of the tufts (52) would be the recited "first bristle tuft" of claim 1 and any one of the tufts (54) would be the recited "second bristle tuft" wherein the first tuft is shorter than the second tuft (paragraphs 0037 and 0038). At least with regard to claim 1, any one of the long tufts (60) (having a length of 8.3 mm) would read on the second tuft and any one of the remaining short tufts on the first tuft. With regard to claims 60 and 61, any two of the tufts (56-62) would read on the first and second angled tufts (of the first holder) (claim 60) and any two of the tufts (52) on the third and fourth tufts (claim 61). The tufts (52) identified above as the third and fourth tufts are perpendicular to the carrier (paragraph 0037) (claim 62). Any remaining tufts (52,54) would read on the third and fourth tufts of claim 63. The rotary oscillation of the carriers in opposite directions would reasonably read on the reciprocation recited in claims 64 and 77. Shaft (30) rotates (column 3, line 21) (claims 66 and 79). The second bristle holder as identified above is the one between the first holder and the handle (claims 67 and 80). Portion (62) which is fixed to an underside of the bristle holder and engaged with the drive reasonably reads on the depending element of claims 68 and 81. Any of the angled tufts (56-62) would read on the first and second tufts of claim 69 and any of the tufts (52) on the third and fourth shorter tufts of claim 70. The bristle holders (2) include depending elements (eg, 64) which extend through an aperture in a top surface of the head such that the bottom surface of the holders at least partially contact an upper surface of the head (claim 71) (see fig 3). With regard to claim 72, the distal angled tuft (56) would read on the at least one tuft extending away from the handle and any two of the angled tufts (56-62) would read on

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the first and second (of the first carrier) tufts and any two of the tufts (52) would read on the shorter third and fourth (of the first carrier) tufts. The proximal of the tufts (56) would read on the tuft of claims 73 and 82. Any one of the short tufts (52) and an adjacent longer tuft would read on the tufts of claim 74. The tufts (52) previously identified as the third and fourth tufts (in claim 72) are perpendicular to the bristle holder (claim 75). The same two tufts (on the second holder) would read on the recited third and fourth tufts of claim 76. The remaining claims have essentially been addressed above and need not be further repeated.

5. Claims 59,60,63,64,66-69 and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bauman (USP 5,353,460) in view of Kraemer (US Des 465,655). As described above, the patent to Bauman discloses the invention substantially as claimed with the exception of the particular tufts arrangement. The patent to Kraemer discloses a disk-shaped bristle holder including a plurality of tufts having an intermediate annular row of tufts which is acutely angled with regard to the bristle holder and wherein the remaining tufts are perpendicular to the holder and the inner tufts (the central tufts as well as an inner annular row) are longer than the remaining tufts. It would have been obvious to one of ordinary skill to have modified the bristle holders of Bauman as taught by Kraemer for the same reason(s) set forth above. Upon the modification of Bauman in view of Kraemer, one of the angled tufts would be angled toward the handle and a diametrically opposite tuft would be away from the handle. Further, any of the outer ring of tufts and any one of the longer inner tufts would read on the recited first and second

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tufts of lines 17-19 of claim 59. Without resorting to undue repetition, applicant should refer to figures 2 and 3 of Kraemer for the other dependent claims.

6. Claims 59-65, 66-78 and 80-86 rejected under 35 U.S.C. 103(a) as being unpatentable over Yukawa et al (USP 5,504,959) in view of Brown, Jr. et al (US PUB 2002/0138926). The patent to Yukawa discloses an electric toothbrush comprising a handle (4) with a motor and a head (5) with first and second (56) bristle holders carried thereon and wherein the holders are each operatively connected to a drive (30) such that the first holder is adapted to oscillate about an axis perpendicular to the axis of the head and the second holder is adapted to reciprocate along the axis of the head (claims 64 and 65). The patent to Yukawa discloses the invention substantially as claimed with the exception of the particular tufts arrangement. Brown discloses a disk-shaped bristle holder (50) supporting a plurality of different tufts (52-60). It would have been obvious to one of ordinary skill to have modified the bristle holders of Yukawa as taught by Brown for the same reason(s) set forth above. Applicant should refer to the detailed description of Brown per the claims. It has note been repeated for brevity.

Response to Arguments

Applicant did not present any substantive arguments with respect to the prior art applied in the prior office action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Spisich whose telephone number is (571) 272-1278. The examiner can normally be reached on M-Th (5:30-3:00), Alternate Fri off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on (571) 272-1142. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark Spisich
Primary Examiner
Art Unit 1744

MS